

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

DONNA CURLING, et al., )

Plaintiffs, )

vs. )

BRAD RAFFENSPERGER, et al., )

Defendants. )

CIVIL FILE ACTION

NO. 1:17-cv-02989-AT

DEPOSITION OF  
JENNIFER DORAN

June 28, 2019

10:04 a.m.

Hall Booth Smith, PC

440 College Avenue

Suite 120

Athens, Georgia

Marsi Koehl, CCR-B-2424



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Exhibit 33	Direct Record Electronic Voting Machine Recap	
Exhibit 34	Ballot Image Report	
Exhibit 35	Official Election Bulletin	
Exhibit 36	November 6, 2018 General Election Undervote Information	
Exhibit 37	Rockdale County Board of Elections Voting Equipment Issues	

(Original exhibits attached to original transcript.)

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10 Also present:

11 Marilyn Marks, Coalition for Good Governance  
12  
13  
14  
15  
16  
17

18 (Pursuant to OGCA 15-14-37 (a) and (b) a  
19 written disclosure statement was submitted  
20 by the court reporter and is attached  
21 hereto.)  
22  
23  
24  
25

1 P R O C E E D I N G S

2 JENNIFER DORAN,

3 having been first duly sworn, was examined and  
4 testified as follows:

5 EXAMINATION

6 BY MR. BROWN:

7 Q. Please state your name for the record.

8 A. Jennifer Doran, D-O-R-A-N.

9 Q. Ms. Doran, my name is Bruce Brown and I  
10 represent the Coalition plaintiffs in this case. I'm  
11 going to be asking you a number of questions that  
12 I hope are clear, but if you don't understand the  
13 question, please ask me just to rephrase it and I'll  
14 try to do better.

15 It's important for the court reporter for us  
16 not to talk on top of each other so that there's  
17 question, break, answer. Sometimes it's a little  
18 unnatural, but we need to make sure we're not talking  
19 on top of each other. I'll try to do my best not to  
20 interrupt you.

21 You've never had your deposition taken  
22 before; correct?

23 A. No. Correct.

24 Q. That's fine.

25 What is your current position?

1 A. Elections supervisor for Morgan County.

2 Q. How long have you been elections supervisor?

3 A. Two years.

4 Q. What did you do before then?

5 A. I was at -- I was at home for a little while  
6 and I was a real estate attorney before that.

7 Q. So you've been to college and law school?

8 A. Yes.

9 Q. Where did you go to school?

10 A. I went to Mercer University in Macon for  
11 undergraduate and then University of Tulsa College of  
12 Law in Tulsa, Oklahoma.

13 Q. When did you graduate from law school?

14 A. 2001.

15 Q. Describe generally your responsibilities as  
16 elections supervisor for Morgan County.

17 A. It's sort of all encompassing. I do  
18 candidate qualifying for municipal elections, also  
19 for independent and county elections.

20 I am the ethics filing officer for all the  
21 elected officials in the county and in the city. And  
22 then I conduct and oversee the elections which  
23 includes scheduling polling place locations, which  
24 are already set but -- excuse me -- setting up L&A,  
25 the logistics and analysis testing.

1           Doing all of the legal notices that are  
2           required. Training poll workers. Setting up  
3           schedules. And overseeing early voting. And then  
4           obviously postelection, getting all the reports  
5           prepared for certification and sending over to the  
6           Secretary of State and the Clerk of Superior Court.

7           Q. To whom do you report?

8           A. I -- the Board of Elections and  
9           Registration. It's a combined board. They are the  
10          ones that oversee the elections and do the  
11          certification. And I'm also secretary to the Board.

12          Q. You described a number of responsibilities.

13                 What staff do you have to help out in those  
14          responsibilities?

15          A. I have one deputy registrar and her  
16          responsibilities are mostly voter registration. And  
17          then she does the absentee ballots. She's the  
18          absentee ballot clerk and she does the credit for  
19          voting during early voting.

20          Q. What's "credit for voting"?

21          A. When you do early voting, you're actually  
22          doing an application for early voting. So when  
23          you're going through the process of early voting, the  
24          voter fills out that application and certificate.  
25          And she enters it into ElectionNet that shows that the

1 voter has come in for early voting and voted, so it  
2 gives them credit for voting.

3 Q. Any other people who report to you?

4 A. The poll workers, which are seasonal  
5 workers. And then I have a technical independent  
6 contractor who comes in and helps me do L&A and helps  
7 me on election day.

8 Q. What is the name of your deputy?

9 A. Sue Doorenbos, D-O-O-R-E-N-B-O-S.

10 Q. What is the name of your independent  
11 contractor?

12 A. Jan Wilbanks, W-I-L-B-A-N-K-S.

13 Q. And is she with a company or is she on her  
14 own?

15 A. She's on her own.

16 Q. In a typical year, say last time you had to  
17 hire poll workers, how many would you have to hire on  
18 a temporary basis?

19 A. For the 2018 elections, we had 31 poll  
20 workers on election day. And then we had two to  
21 three poll workers who were not able to work on  
22 election day but worked early voting. So I think we  
23 had 34 total that were trained.

24 Q. How many different polling locations do you  
25 have for election day voting?



1 A. On election day, we have seven polling  
2 locations.

3 Q. And how many on early voting?

4 A. One.

5 Q. One.

6 I think you said January Wilbanks; is that  
7 correct?

8 A. Correct.

9 Q. Can you describe the kind of work that she  
10 does, in little bit greater detail, for you?

11 A. She helps me with the machines doing the  
12 L&A. We -- she -- from the very beginning where we  
13 program the memory cards that go into the TS units,  
14 she helps me set up the L&A testing.

15 It's a pretty long process for each machine  
16 and we have 50 to 70 machines that we work with, so  
17 it's at least a two-person job.

18 Q. Does she have like a license with the  
19 manufacturer to do that or to work on those machines  
20 or a certificate of some kind?

21 A. She has done the training through the KSU  
22 and she was doing this before I started. So I'm not  
23 sure when that happened.

24 Q. Does she have some sort of nondisclosure  
25 agreement or confidentiality agreement about the work

1 that she does on your system?

2 A. She has not signed one since I've been  
3 there.

4 Q. Okay.

5 A. I am not sure what she signed before --

6 Q. Sure.

7 A. -- because she has been there multiple  
8 years.

9 Q. When you say "L&A," you mean logic and  
10 accuracy?

11 A. Correct.

12 Q. I'm going to go through different topics and  
13 I may jump around a little bit, but I'm going to try  
14 to cohere around different groups of questions.

15 And the first topic that I want to talk  
16 about is the concerns expressed by the Board about  
17 the new implementation. And have you discussed with  
18 your Board the anticipated implementation of a new  
19 voting system for Georgia?

20 A. Yes, sir. We had discussed in general  
21 before HB 316 was voted into law or signed into law  
22 the general guidelines -- or the general schedule.

23 And then after 316 was implemented, the  
24 Secretary of State published a tentative schedule of  
25 the machines, who would get the voting equipment,

1 what phase.

2 And we have spoken briefly about that in one  
3 meeting and then it was discussed in greater detail  
4 the last meeting on June -- the June meeting. I'm  
5 not sure the date on that one.

6 Right now we are not going to get the  
7 machines until phase 2 part 1. And my understanding,  
8 it's obviously after the November election but before  
9 the March presidential preference primary.

10 And one of our board members expressed  
11 concern about the timing, that we would only have  
12 two months from the time we received the first  
13 equipment to the time we can train the public, the  
14 poll workers and staff until the presidential  
15 preference primary in March.

16 Q. Now, when did the Board -- which of these  
17 meetings did she express those concerns?

18 A. This was the June 2019 meeting.

19 Q. Is that the most recent meeting?

20 A. It is.

21 Q. Meeting generally once a month or...

22 A. The third Thursday.

23 Q. Did you respond to the board member's stated  
24 concerns about the implementation schedule?

25 A. Yes, sir. I did inform them that there had

1 not been a contract -- has not been signed as far as  
2 I know, that a new vendor has not been decided by the  
3 Secretary of State. So the -- the schedule of when  
4 we would receive things has not been solidified.

5 Q. I understand that Morgan County is not a  
6 pilot -- is not on a pilot program; is that right?

7 A. Correct. We are not.

8 Q. And your understanding is that -- is it your  
9 understanding that all the counties have been  
10 allocated into which phase or which part they are in  
11 in terms of the implementation?

12 A. Yes, sir.

13 Q. And that Morgan slots into the phase 2  
14 part 1; is that correct?

15 A. Correct.

16 Q. Your understanding is that that is -- that  
17 the earliest that you would get machines, not  
18 necessarily in November but after the November  
19 elections. Is that fair to say?

20 A. Correct.

21 Q. Do you have any more sort of definite  
22 information on the time frame or will that have to  
23 wait until the contract is signed?

24 A. During that meeting, the Board asked that I  
25 contact the Secretary of State. So I reached out to

1 Chris Harvey, the elections director, and asked him  
2 if there was a more definite timeline because our  
3 board was concerned.

4 And he did say because they have not settled  
5 on the contract -- I'm not exactly -- his exact  
6 words. But since the vendor had not been finalized,  
7 there is no definite time frame and that he would let  
8 us know as soon as he knew.

9 Q. I'm not suggesting you should have, but I  
10 just need to sort of get the lay of the land.

11 Did you express any concerns back to the  
12 Board about the anticipated implementation schedule  
13 and the burden it would place upon Morgan County  
14 voters or your office?

15 A. I did not express any concern. Generally,  
16 we train our poll workers about a month before the  
17 election. Obviously, with new voting equipment, we  
18 want to do more extensive training. But if we have  
19 training in January, I feel like that would be enough  
20 time.

21 However, the public probably would want more  
22 time. And the phase -- as far as I know, phase 2  
23 part 1, we're only getting a limited number. We're  
24 not getting our full number of equipment. So we're  
25 getting five BMDs, one precinct scanner, the new GEM

1 server but not everything. So we'll have a limited  
2 number to train on and to show the public.

3 Q. And then do you get the full complement  
4 before the elections themselves? Is that the  
5 thinking?

6 A. Yes, sir.

7 Q. So you get sort of a training package first.  
8 Is that the idea?

9 A. Correct.

10 Q. But is -- the first live real election would  
11 be the presidential preference primaries in March?

12 A. Yes, sir.

13 Q. You mentioned poll worker training.

14 Who will train the poll workers and when  
15 will they be trained, if that makes any sense?

16 A. Yes. The Secretary of State has tentatively  
17 set up -- actually, there's not a tentative date.  
18 But they have said the election officials will be  
19 trained sometime in the fall of 2019. So we will get  
20 our training, just like we were trained initially on  
21 the DRE equipment.

22 And then we -- I will do the training. And  
23 we have already -- I've already spoken with one of  
24 our poll managers -- a couple of our poll managers,  
25 that we will have the poll managers come in and do

1 extra training who will then help me do full training  
2 on all the poll workers, which gives them, the poll  
3 managers, more training when you're having to teach  
4 somebody else how to do it.

5 Q. Try to break down all that's involved in  
6 this.

7 It will be new voting machines; right?

8 A. Yes, sir.

9 Q. New electronic poll machines; correct?

10 A. Yes, sir.

11 Q. New scanners?

12 A. Yes, sir.

13 Q. You will have physical inventory of the  
14 paper ballots that are produced by the ballot marking  
15 device; correct?

16 A. Yes, sir.

17 Q. And then you mentioned GEMS software.

18 Do you mean sort of the equivalent of GEM  
19 software for the new system or will it be the --

20 A. My understanding --

21 Q. -- same?

22 A. I'm sorry. My understanding is that we are  
23 getting a whole new computer system --

24 Q. Yeah.

25 A. -- with new software that's updated.

1 Q. And the system hasn't been selected yet, so  
2 I guess the software hasn't been selected either  
3 because it would -- one company is going to use  
4 different software than another company; right?

5 A. Correct.

6 Q. And then I may have some more questions  
7 about this in a second. But the way the system works  
8 now is that the Secretary of State builds the ballots  
9 in the GEMS database in Atlanta. And then the GEMS  
10 database gets down to the counties to program the  
11 GEMS servers in the counties.

12 Is it your understanding all that is going  
13 to be done differently with the new system or has  
14 that been established?

15 A. To my knowledge, it has not been  
16 established.

17 Q. Getting back to your own sort of schedule.  
18 You mention the poll worker training would be one  
19 month before elections or early voting or what would  
20 that be before?

21 A. I usually do it one month before the  
22 elections, so it usually falls about one to two weeks  
23 before early voting starts.

24 Q. Do you think that will be sufficient for the  
25 new system to do it a month before or do you think



1 you need more time?

2 A. I definitely need more time to train the  
3 poll managers because they have -- everybody should  
4 be competent to do the same job. But the poll  
5 managers are always the ones that do troubleshooting,  
6 answer questions. They are sort of a man of many --  
7 or women of many hats. So we plan on doing an  
8 initial training on just the poll managers before  
9 that and then the training for the poll workers.

10 Q. So the election supervisors will get -- you  
11 will get oriented to the new system in the fall?

12 A. Correct.

13 Q. And then after that, you will train the poll  
14 managers?

15 A. Yes.

16 Q. And then after that, the poll managers and  
17 you will train the poll workers?

18 A. Correct.

19 Q. Is that a fair summary?

20 A. Yes.

21 Q. This would be on -- at least for you in the  
22 fall and for the poll managers thereafter, that would  
23 cover probably every piece of the election system,  
24 right, the electronic poll books, voting machines,  
25 scanners, the whole process; correct?

1 A. Correct, along with the paper ballots.

2 Q. Paper ballots inventory, paper ballot  
3 security; things like that?

4 A. Correct.

5 Q. And then the poll workers would get some  
6 subset of that or most of that also of that training  
7 or would it depend?

8 A. They all receive the same training. The  
9 assistant poll managers -- by law you have to have  
10 one poll manager and two assistants and then we have  
11 poll workers.

12 We train them all exactly the same so that  
13 if something were to happen, the poll manager  
14 assistant can move up to poll manager. They should  
15 all be able to do the exact same job.

16 Q. With your scanners, do you have -- currently  
17 do you have a scanner in each precinct?

18 A. We do not have a scanner in each precinct.

19 Q. Do you have a central scanner? I mean, do  
20 you have centralized scanning?

21 A. We do. Yes, sir.

22 Q. Where is that? Is that the county office?

23 A. It is in our office.

24 Q. How would that work with BMDs, do you know,  
25 with the new system?

1 A. My understanding is that each precinct would  
2 have their own scanner. We've -- I've gone to the  
3 capitol. I've gone to a couple of the safety  
4 commission meetings that actually have the equipment.  
5 I'm not overly familiar but a general idea.

6 And then we had an ES&S presentation at one  
7 of our regional meetings where you do the scanner at  
8 the precinct and then the tabulation where you have  
9 the -- the paper which is what you print out on each  
10 DRE, you would only have one of those -- excuse me --  
11 plus the electronic data plus the paper ballot. And  
12 you would take that in and do a central -- excuse  
13 me -- a central tabulation at the precinct -- I mean  
14 at the office.

15 MS. ANDERSON: I'm sorry. Were you just  
16 describing the process for DREs or BMDs?

17 THE WITNESS: Of the BMDs, but I was  
18 talking about the poll tape from the scanner  
19 like the poll tape from each DRE.

20 MS. ANDERSON: Okay. Got it. Thank  
21 you.

22 BY MR. BROWN:

23 Q. When is it anticipated that you would  
24 actually be trained on sort of the software  
25 management system that would be equivalent to the

1 GEMS system today? Do you know when that's going to  
2 happen?

3 A. I do not. I assume -- excuse me -- it will  
4 be in the fall when we get our hands on and training  
5 for the BMDs. So that would be part of it.

6 Q. It sounds like you've been sort of thinking  
7 ahead.

8 Have you been asked by the Secretary of  
9 State to sort of publish a schedule that you  
10 anticipate or is this just something you're doing on  
11 your own to do your job?

12 A. This is something I've been doing on my own  
13 sort of trying to look ahead.

14 Q. Sure. So you haven't been required by the  
15 Secretary of State or somebody saying, Give me your  
16 plan for implementation, or anything like that?

17 A. No, sir. I have not.

18 Q. Do you know -- well, it's your understanding  
19 that the State is going to pay for the machines  
20 themselves; is that right?

21 A. That's my understanding.

22 Q. And then the counties are going to pay for  
23 the maintenance on the machines. Is that your  
24 understanding?

25 A. I spoke with Ted Duval at the Secretary of

1 State's Office during our GEOA-VRAG -- G-E-O-A dash  
2 V-R-A-G -- conference in March this year and asked  
3 him -- someone in our community had expressed  
4 concerns about the maintenance and upgrade fees. And  
5 so I asked him. And he said at that time they did  
6 not know. That was something they didn't know, so we  
7 don't know.

8 Q. Same thing with -- I mean, not just  
9 maintenance but other sorts of operational costs,  
10 like service or license fees.

11 Do you know how that is going to be handled,  
12 just sort of the ongoing costs of using the  
13 equipment? Do you know how that's going to be  
14 handled?

15 A. That was part of the question I asked,  
16 license, maintenance. I know that some -- when they  
17 were doing the RFIs, they had some breakdown of, you  
18 know, the warranty and then the extended warranty,  
19 but we do not know.

20 Q. Do you have in your budget a line item for  
21 that or has that been allocated for you?

22 A. We have not put that in our budget.  
23 Unfortunately, since we do not know what system we're  
24 going to be using and the cost for that system, we  
25 have not budgeted for that.

1 Q. You don't know the cost or how much the  
2 State is going to pay of it?

3 A. Correct.

4 Q. Do you know how many machines you will get  
5 ultimately? You said five for training, but what's  
6 the total number for Morgan County, plus or minus?

7 A. Somewhere between 50 and 70.

8 Q. Is that about how many DREs you have?

9 A. That is.

10 Q. How many registered voters are there in  
11 Morgan County?

12 A. We currently have a little over 14,100  
13 registered voters.

14 Q. Let me ask you some questions about the work  
15 that your office does for municipalities.

16 A. Okay.

17 Q. Just by way of background, there's --  
18 municipalities will conduct their own elections in  
19 some instances; correct?

20 A. Correct.

21 Q. And in Morgan County, there are a lot of  
22 municipalities, but which ones do their own elections  
23 from time to time in Morgan County?

24 A. Currently, we have -- we have four  
25 municipalities and all four municipalities have IGAs

1 with our Board for us to conduct their elections.

2 Q. That's Madison. Who else?

3 A. Madison, Bostwick, Buckhead and Rutledge.

4 Q. By "IGAs," you mean intergovernmental  
5 agreements?

6 A. Correct.

7 Q. So you by contract run their elections?

8 A. Yes, sir.

9 Q. Okay. Your staff -- as if it were a county  
10 election, you're just doing it through contract with  
11 the municipalities; is that correct?

12 A. Yes, sir.

13 Q. And would that continue as far as you know  
14 with the BMDs?

15 A. Yes, sir. They have not made any  
16 indications -- I think most of our IGAs are 40 years  
17 unless there are any changes.

18 Q. Stepping back to the implementation of the  
19 new system, have any plans been made for how the  
20 county is going to audit the election results?

21 A. Currently, there are no steps that we've  
22 taken to set up an audit system. I know that the  
23 Secretary of State will be setting up the required  
24 audit.

25 So we've been waiting -- obviously, we have

1 to wait for the new system and then the new processes  
2 which would include the postelection audit process.

3 Q. Have you received from the Secretary of  
4 State, or otherwise, procedures for how to secure the  
5 paper ballots once they are -- either before or after  
6 they are voted upon, if that's the right expression?

7 A. We have not yet.

8 Q. Today you -- you use paper ballots today,  
9 correct --

10 A. Right.

11 Q. -- for provisional and for absentee ballots;  
12 correct?

13 A. Yes, sir.

14 Q. And you have processes in place now for the  
15 security of the ballots themselves; is that right?

16 A. Yes, sir.

17 Q. Do you know what the ballots themselves are  
18 going to look like with the new system, just  
19 physically?

20 A. I have seen the ballots for the vendors that  
21 have come to the meetings, you know, either this  
22 or -- they don't look like our paper ballots that we  
23 send out for early voting and that we do on  
24 provisional -- I know one vendor and -- I don't  
25 remember the name -- actually produces a ballot that



1 looks like a ballot that we would produce.

2 Q. That's the Clear -- what's it called? The  
3 Clear --

4 MS. MARKS: Clear Ballot.

5 BY MR. BROWN:

6 Q. Yeah, Clear Ballot. Is that their name?

7 A. I think so.

8 Q. And then the others look more like long  
9 receipt from Staples; right?

10 A. Right.

11 Q. Do you know what I'm talking about? They  
12 give you --

13 MS. ANDERSON: You mean CVS?

14 BY MR. BROWN:

15 Q. It just goes on.

16 A. I think it was Old Dominion -- let me take  
17 that back. I don't know because we saw so many.

18 At the beginning there were about eight that  
19 were presenting. And then, of course, HB 316 changed  
20 how it has to look. You can't just have a QR code.  
21 It actually has to be printed.

22 So early in the process we saw ones that  
23 just had a little QR code that were a small piece of  
24 paper. And, of course, we see the ones that are like  
25 the thermal that have the bar code and then --

1 printed on there.

2 Q. And then so the thermal one would be blank  
3 before it gets fed into the machine; is that right?

4 A. Correct.

5 Q. And the machine would print everything that  
6 you see on that; is that right?

7 A. Yes, sir.

8 Q. So there's nothing distinctive about a blank  
9 one?

10 A. Correct.

11 Q. And that would be different than the way you  
12 inventory and manage paper ballots now; correct?

13 A. Correct.

14 Q. Are there any guidelines that you've seen  
15 for how you secure the -- you might secure the blank  
16 to-be-printed ballots in a new system?

17 A. We have not seen any of those guidelines  
18 yet.

19 Q. Describe for me just once again -- I was a  
20 little unclear on your understanding of how with the  
21 new system, the votes results get transferred or  
22 would get transferred from the precinct to the  
23 central and the various media that that would  
24 involve.

25 A. Okay. I'm just going to use ES&S

1 just because that's what we currently use and I'm  
2 familiar.

3 Once you print out the ballot on the ballot  
4 marking device, you go over to the scanner. It scans  
5 in. It reads it. It drops it into a secure ballot  
6 box in the big box that the scanner is sitting on.

7 At the end of the night, you print the  
8 results tape just like you would on a DRE. There is  
9 a removable media, whether it's a USB or a memory  
10 card. So you have them electronically, but then you  
11 have the paper that you pull out the ballot box. You  
12 seal it and carry back to the precinct.

13 Q. So you probably have three things  
14 altogether. You would have the results tape that's  
15 printed by the scanner is one; correct?

16 A. Correct.

17 Q. And then you would have on some type of  
18 memory card, an electronic version of the results  
19 tape; is that correct?

20 A. Correct.

21 Q. And then the third thing you would have is  
22 the box of the actually receipts that the individual  
23 voter prints out and puts into the scanner; is that  
24 right?

25 A. Right. The paper ballots is --

1 Q. Okay. And then those get toted to the  
2 central office --

3 A. Correct.

4 Q. -- for appropriate tabulation?

5 A. (Witness nods head affirmatively.)

6 Q. You need to say "yes"?

7 A. Yes. I'm sorry, yes.

8 Q. And I take it it would probably be -- the  
9 memory card would be shoved into some sort of  
10 tabulator. Is that how they would do it?

11 A. My understanding is that those would be fed  
12 into the GEMS server, however it gets there. And  
13 then we centrally process through the GEMS server.

14 MS. ANDERSON: And, Bruce, I'm just  
15 going to object to this line. I know you  
16 were talking about the implementation as  
17 going forward. But know I feel like we're  
18 really getting into BMDs and what they do.

19 As you know, we've kind of objected to  
20 go -- we think that's outside the scope of  
21 discovery at this point. You know, and  
22 obviously there's not a system in place, so  
23 there's only limited knowledge about that  
24 security.

25 So I'm just going to object and have

1 that on the record. We believe a lot of  
2 this is outside the scope of discovery at  
3 this point.

4 BY MR. BROWN:

5 Q. Today, how do you secure provisional  
6 ballots, blank provisional ballots?

7 A. They are sent in a manager's bag that's  
8 picked up and it's in a provisional bag that has a  
9 seal on it, which is then broken at -- when we first  
10 do the provisional ballot, the first provisional  
11 ballot.

12 It's a bag that has two openings where we  
13 put the supplies in. And then it also has another  
14 secure section that you put the voted provisional  
15 ballots.

16 Q. I may come back to some of these questions.  
17 Did you in 2018 consider the possibility of  
18 Morgan County moving to hand-marked paper ballots  
19 instead of using the DREs?

20 A. During -- after the plaintiffs in the  
21 Curling case had filed a motion to move to paper  
22 ballots, the judge had not made a decision at that  
23 point. There were some local citizens who came to  
24 our board meetings to ask the Board to consider  
25 moving to paper ballots.

1           There was a resolution from one of our board  
2 members that was presented to the Board for  
3 consideration to move to paper ballots.

4           Before -- let me back up. Before the  
5 resolution was, about that time -- I can't say one  
6 way or the other. It's been a few months. A  
7 resolution had been presented to move to paper  
8 ballots and it was voted down two to three.

9           We had -- the Board asked me to reach out to  
10 Christian Henry and to the State to see if that was  
11 even an option. And the feedback we received from  
12 both of them was that we could not.

13           And during that process, the Board in a  
14 three to two decision decided to wait until the Court  
15 or the law changed how we did voting.

16           Q. In connection with that consideration, did  
17 you evaluate the feasibility of Morgan County  
18 switching to hand-marked paper ballots from an  
19 operational standpoint?

20           A. Yes. As part of the Board asking me to  
21 reach out to the county attorney and the Secretary of  
22 State, they also asked me to do a cost analysis on  
23 that, which included precinct scanners, the cost,  
24 because currently we do not have precinct scanners at  
25 the precincts.

1           We would -- so I did -- I looked up -- or I  
2 got price quotes for precinct scanners along with  
3 secure ballot boxes. They do have it where the --  
4 once you feed the ballot into the scanner, it drops  
5 into a ballot box. So it's automatically secured,  
6 so we don't have -- you know, as long as you've  
7 secured that box, you have a secure ballot. And I  
8 presented that information to the board.

9           Q. So that the unit is a precinct scanner with  
10 a secure ballot box attached to it. Is that what it  
11 is?

12          A. Correct.

13          Q. How much did those cost?

14          A. They cost -- the scanner plus the ballot box  
15 was about \$1,300 per precinct.

16          Q. So for you, it would be times seven?

17          A. It would be times eight for the early  
18 voting.

19          Q. Are these the -- does this use the same sort  
20 of AccuVote software as the current system? Are they  
21 compatible with what's used now, if that makes any  
22 sense?

23          A. Yes.

24          Q. And those would -- the output would feed  
25 into your current system the same way?

1 A. They would, yes.

2 Q. Because you have scanners now that feed into  
3 your county GEMS database; correct?

4 A. Right. We do.

5 Q. So you would just be adding precinct  
6 scanners to handle the additional paper ballots that  
7 would be coming in if you switch to paper ballots.  
8 Fair to say?

9 A. Yes, sir.

10 Q. Did you price ballots themselves?

11 A. I did. Currently, our paper ballots -- of  
12 course, we only print paper ballots for absentee and  
13 provisionals. It's not a very large number. We  
14 don't have a large population.

15 We pay 40 cents -- we pay 40 cents a ballot,  
16 so I priced it at that.

17 Q. Did you suggest that you might get a better  
18 deal if you -- was it your suggestion you might get a  
19 better deal if you had more volume or do you know if  
20 you would?

21 A. I remember when I was compiling the  
22 information for the subpoena that I had asked our  
23 ballot printer if we would get a per-ballot discount  
24 for a larger -- and he had called me to talk to me  
25 and, as I recall, he never gave me an answer.



1 Q. Okay.

2 A. But --

3 Q. Just like anybody else you do business with.

4 A. Yeah.

5 Q. If you ask three questions, you get an  
6 answer to the first one.

7 A. Right.

8 Q. I've been there.

9 And then how many -- if you were -- if you  
10 were making the switch to hand-marked paper ballots,  
11 how many paper ballots would you order?

12 A. Unfortunately, that's hard to say. In 2018,  
13 as we all know, we had a tremendous turnout in the  
14 general election. If we had looked at the numbers  
15 for 2014, which are the same races that you would  
16 think would be the same percentage, we would have  
17 been quite a bit short. We had a 20 percent increase  
18 in voters.

19 So, you know, and then like 2020 -- in 2016  
20 we had over 80 percent turnout. If you have that  
21 much of a change, you would want to have at or close  
22 to a hundred percent.

23 Q. That's based upon your projection of turnout  
24 plus a reasonable margin, is that fair to say --

25 A. Correct.

1 Q. -- would be the thinking that you would use?

2 A. Yes, sir.

3 Q. You would need those at the start -- by the  
4 start of early voting, you need to have your stock  
5 already printed? Right? You'd have your whole  
6 carton of ballots by the start of early voting?

7 A. We would.

8 Q. Did you consider any other sort of  
9 logistical issues in moving to hand-marked paper  
10 ballots other than the cost of the scanners and the  
11 price of the ballots?

12 A. The actual procedure. Right now we have a  
13 set procedure that is guided by the Secretary of  
14 State of how you handle a voter from the time he  
15 walks in to the time he walks out. Like every  
16 procedure we do is dictated already. Every poll  
17 worker in the state knows that you do this, this and  
18 this.

19 There is no real procedure that I am aware  
20 of of how you do paper ballots, how you make sure  
21 that you're getting the right district combo so that  
22 you have the right ballot style; that you make sure  
23 that somebody is not bringing in their own ballot  
24 already made up or that they are putting more than  
25 one in.

1 We don't have that procedure in place, so we  
2 would have to have some type of procedure and  
3 guidance on the actual procedure and logistics of  
4 that.

5 Q. One option is -- just to sort of cut to the  
6 chase, is the option that we're advocating in our  
7 lawsuit is that the -- at least preliminarily for  
8 this year and for next year, that the GEMS system,  
9 ballot building, GEMS database, delivery to the  
10 counties, ballot printing; and then on the other side  
11 of the vote, the scanning and tabulation remain the  
12 same but that the interface with the voter change  
13 from the electronic machine to the tender of a paper  
14 ballot.

15 So that's -- in broad strokes, that's the  
16 relief that we're seeking. And I want to focus on  
17 that particular relief.

18 If done that way, there would be many steps  
19 that would be the same; correct?

20 A. Correct.

21 Q. Today, you receive from the Secretary of  
22 State the GEMS database with -- with the  
23 information -- wait, wait. Let me back up a second  
24 because I had the wrong understanding of this.

25 Today the Secretary of State will actually

1 order the paper ballots for you, is that correct,  
2 pursuant to your instructions?

3 A. They do not.

4 Q. How does that work? How do you order your  
5 paper ballots?

6 A. I'm going to back up just a little bit.

7 Q. Sure.

8 A. We do our ballot proofing to make sure all  
9 our candidates are on there, that the names are  
10 spelled right, that the audio is all correct.

11 Once we sign off on the ballot proofing back  
12 to the Secretary of State, they have -- they send  
13 that information to our ballot printer, but then I  
14 send how many of each type of ballot.

15 Q. Are they like PDFs that go to the printer  
16 from the Secretary of State then? Is that the form  
17 or is there some other type of media that goes from  
18 the Secretary of State to the printer?

19 A. I do not know that. I know that I sign  
20 off -- there's actually a ballot sign-off sheet. I  
21 list our printer that we've been using for multiple  
22 years, that the ballots that they send me, the proofs  
23 are correct, and I do not know how that's  
24 transmitted.

25 Q. But the ballots go from the Secretary of

1 State to your printer and you tell the Secretary of  
2 State which printer to use; correct?

3 A. Correct.

4 Q. And then you tell the printer how many you  
5 want?

6 A. Correct.

7 Q. And you pay them?

8 A. Correct.

9 Q. And then today, how do you decide how  
10 many -- what number per ballot style you order? Is  
11 that based upon the same anticipated turnout or --  
12 for absentee or how do you know that?

13 A. We -- I do. We kind of look at the trend of  
14 this is a more voted year -- I don't know how to say  
15 that, but more people are voting; and that we look at  
16 the numbers compared to the same races.

17 So we looked at 2018 -- or we looked at 2014  
18 to kind of gauge '18. And we woefully miscalculated.  
19 We had quite a few -- large number of turnout. We  
20 also had -- I know there was an initiative to do  
21 paper ballots, so we had a very large paper ballot  
22 voting.

23 So we did a couple of reprints for certain  
24 precincts. But that's what we do. We just sort of  
25 do a, you know, hopefully educated guess but a guess.

1 Q. Back to the feasibility. Did you understand  
2 the vote was three to two --

3 A. Correct.

4 Q. -- to not adopt paper ballots?

5 And a part of what -- well, the advice you  
6 received -- just to sort of skip steps, the advice  
7 you received from the lawyers was that Morgan County  
8 could not on its own decide to conduct a paper ballot  
9 election; is that correct?

10 A. Correct.

11 Q. Have you received any additional new advice  
12 on that issue from anybody?

13 A. At the same time Chris Harvey also gave me  
14 very similar to what the legal opinion that we had  
15 received from our county attorney.

16 Q. Have you received any update since Judge  
17 Totenberg issued her decision in September as to  
18 whether the counties have the authority on their own  
19 to conduct hand-marked paper ballots?

20 A. We have not.

21 Q. Okay. So you looked at the pricing of the  
22 scanners and the ballots and you considered sort of  
23 the general feasibility.

24 Were you favorably inclined just yourself --  
25 I know you would follow what the Board told you. But

1 were you favorably inclined to go with hand-marked  
2 paper ballots then?

3 A. I didn't really have -- I can see the  
4 argument both ways. I thought that it would create  
5 more confusion because I know the HB 316 -- I don't  
6 think it was HB 316 at the time, but it was in the  
7 works. It had already failed in the previous  
8 legislation and I know they were going to reintroduce  
9 it.

10 I was not in favor of moving to paper  
11 ballots for one election and then starting a new  
12 voting equipment system another year.

13 Q. Right.

14 A. I know that that was one of -- one of the  
15 concerns is switching so late, but also if we're  
16 going to get some type of new voting equipment,  
17 whether it was BMDs or hand-marked or whatever, that  
18 we switch and then we switch again.

19 Q. I take it part of your assessment is based  
20 upon your presumption that the DREs are secure;  
21 correct?

22 A. Correct.

23 Q. If your assessment of that changed, you  
24 could very well change your judgment on whether  
25 hand-marked paper ballots are better to go with right

1 now; right?

2 A. Correct.

3 Q. I'm not suggesting that this is your job or  
4 that you should have. Right? I just need to ask.

5 But have you reviewed the material from, for  
6 example, the National Academy of Sciences or other --  
7 or from the federal government about the  
8 vulnerability of DRE machines?

9 A. I have read several articles and papers that  
10 have been submitted and have been written. I cannot  
11 tell you exactly who wrote those because there is a  
12 plethora of it out there.

13 Q. Sure.

14 A. But I have seen articles about the security  
15 about the DREs.

16 Q. And your board has presumably seen some of  
17 those reports also; is that right?

18 A. Correct.

19 Q. A subselection of it?

20 A. Yes.

21 Q. Is the Board going to reconsider that issue  
22 this year 2019 about hand-marked paper ballots as far  
23 as you know?

24 A. I know that there is one board member that  
25 would like hand-marked paper ballots, so I'm -- my



1 guess is that it would be brought up again for  
2 discussion in the next couple of months.

3 Obviously, with the municipal elections in  
4 November, it would have to be discussed fairly  
5 quickly.

6 Q. So in November you have elections in some of  
7 your municipalities or all of them?

8 A. Three of our municipalities have elections:  
9 Buckhead, Rutledge and Madison.

10 Q. Are there any other elections between now  
11 and the end of 2019 in your world?

12 A. No, sir. None scheduled.

13 Q. How about in 2020 before the presidential  
14 preference primaries; are there any scheduled?

15 A. No, none scheduled.

16 Q. Could a SPLOST sort of kick up quickly or  
17 something like that?

18 A. We just passed a T SPLOST in March of '19  
19 and the regular SPLOST was in May of '18.

20 I know that the E SPLOST will be coming up  
21 in the next year or two. I'm not really sure when  
22 that's set to renew.

23 Q. What's the E SPLOST?

24 A. Education.

25 Q. You don't know when that's coming up?

1 A. No. It's either going to be '20 or 2021.

2 Q. Any other elections that you -- you have the  
3 presidential preference primary. You have the  
4 November municipal elections. And then to the best  
5 of your current knowledge, you don't have any  
6 contrary information, there may be SPLOSTs sometime  
7 later in 2020. Is that a fair summary?

8 A. Possibly.

9 Q. Because some of these elections like a  
10 SPLOST can come up quicker?

11 A. Correct. Generally, it's considered a  
12 special election. And if you do a special election  
13 in conjunction with a general election, which is what  
14 they try to do because it minimizes cost, you get a  
15 better voter turnout. If they are coming in for  
16 something else, you might as well put it on there.

17 Q. If you want a bigger turnout?

18 A. Right. Or you may not. But you have to do  
19 the call 90 days in advance, so we have at least a  
20 three-month notice. If it's done in November of  
21 2020, it would have -- the call would have to be in  
22 early August. So we would know by late July of 2020  
23 if that's going to be added on there. Unless it's a  
24 separate election, then they only have to do it  
25 30 days in advance.

1 Q. Have you -- have you considered -- well, let  
2 me back up little bit.

3 You have 50 to 70 DRE machines; is that  
4 right?

5 A. Correct.

6 Q. To do a DRE voting machine election, just  
7 walk with me at sort of a medium level what you have  
8 to do with those DRE machines, like taking them out  
9 of storage, using them, putting them back into  
10 storage; sort of the whole process.

11 A. Okay. We have a storage room on site at my  
12 office. It's a secured storage room. We actually  
13 store and do our L&A process in there, so we don't  
14 have to move it from one location or one room to  
15 another. We do it all in the same location.

16 Once we do our L&A, obviously, we keep them  
17 sealed and stored. And then we have our maintenance  
18 staff and usually a board member comes out and helps  
19 us set up the equipment.

20 The election happens. And then the same  
21 people then go and do the reverse where we then pack  
22 everything up.

23 Q. Seal it --

24 A. Well, the sealing is done by me, the initial  
25 sealing after L&A is done ready for election. As

1 part of the closing process, the poll workers seal  
2 them again and then they are brought back sealed to  
3 our office.

4 Q. If you switch to hand-marked paper ballots,  
5 you could do it with the same staff that you have  
6 now; correct?

7 A. We could.

8 Q. Right. And you'd be shifting work around,  
9 but it would be labor that you'd use your existing  
10 overhead if it were to take care of. Does that make  
11 sense?

12 A. Yes. And that's correct.

13 MR. BROWN: I need to get some water.  
14 You want to take about a five-minute break?  
15 Is that okay with you?

16 THE WITNESS: Yes.

17 (Recess from 11:02 a.m. to 11:14 a.m.)

18 BY MR. BROWN:

19 Q. First, I want to go through and clarify.  
20 Some of my questions weren't very good. And so this  
21 is going to review a little bit, but I just need to  
22 make sure the record is clear.

23 On the provisional ballots today, the way  
24 they are secured today, you -- you will make an order  
25 for paper provisional ballots today, correct --

1 A. Correct.

2 Q. -- based upon some calculation that you make  
3 on your need for them, the number of those; correct?

4 A. Correct.

5 Q. Could you walk me through how those  
6 provisional ballots are secured?

7 You get them from the printer and then what  
8 happens?

9 A. Until election day they are secured in my  
10 storage room, which is -- well, there's no access but  
11 me. And then they are put in a bag that has a seal  
12 on it, which is on the paperwork the poll manager  
13 has.

14 And then it's given to the poll manager  
15 directly. They're not left at the precinct. So she  
16 or he have it in their possession until they get to  
17 the precinct.

18 Q. And the provisional ballots will be in use  
19 for early voting and election day voting?

20 A. The paper ballots that we received -- or we  
21 receive, they are marked as absentee, slash,  
22 provisional, slash, challenged. So they do have  
23 stubs on them and we pull off the first however many  
24 we set aside for provisionals. But they are the  
25 exact same ballot as if you send in an absentee

1 ballot request.

2 Q. So walk me through. You give them to the  
3 poll manager in the sealed envelope?

4 A. Correct.

5 Q. And then as he needs them, he pulls them out  
6 and gives them to a provisional voter; is that right?

7 A. Correct.

8 Q. And then what do you do with the unused  
9 ballots?

10 A. Those are returned on election night. The  
11 poll managers come by on Monday when they pick up the  
12 express polls and they have a big manager's bag that  
13 has all their instructions, the provisional ballots  
14 and various supplies that they need.

15 And they bring that bag back that has the  
16 completed provisional or used provisional, any spoil  
17 provisional and unused ones and they are returned  
18 back to me that night.

19 Q. And then do you keep a record of what you  
20 get back?

21 A. Correct. There is a provisional ballot  
22 recap sheet that I fill out some of the information  
23 for the poll manager. I list how many ballots that I  
24 provide.

25 Say there's -- in a small election they

1 might get 10. It has it on the recap sheet that 10  
2 were provided. And she -- I say "she" because until  
3 this last election, all of our poll managers were  
4 women. So I'm just going to keep saying "she."

5 She goes through the paperwork along with  
6 the assistant poll managers because it requires three  
7 signatures, but she actually has to record how many  
8 were used or completed, how many were spoiled and  
9 then how many were returned unused.

10 And by the time you finish the paperwork,  
11 spoiled, used and unused should match the number that  
12 I gave you that is 10.

13 Q. It better add up?

14 A. Yes.

15 Q. And then the voted -- what happens with the  
16 voted provisional ballots?

17 A. On the back of that bag is a sealed  
18 container that the voter actually puts the first seal  
19 on it when it's sealed so that it's empty to begin  
20 with. And then there's a little slot that you slide  
21 it into. And then at the end of night, we break the  
22 seal and pull out the provisionals.

23 Q. The end of the night on election day?

24 A. On election night.

25 Q. And then there's a process for reviewing the

1 provisional ballots?

2 A. Correct.

3 Q. Do the provisional ballots come on a -- like  
4 a stub with a number on them or something or are they  
5 just loose? Are they in a pad?

6 A. They are not in a pad, but there is a stub  
7 with a number on it, one through 50. Generally, in a  
8 smaller election, that's something we order. We  
9 never have used more than 50 until this last year.

10 But -- so what we do is -- that it would say  
11 that we gave number one to John Smith, who's a  
12 provisional voter. However, because it's pulled  
13 apart and you have to keep the stub, so the stubs are  
14 returned to us. If there are two provisional  
15 ballots, you're going to give me a stub that says one  
16 and two and that's part of the paperwork with the  
17 provisionals.

18 And, obviously, because you separate it,  
19 there's not a one or a two on the ballot. So we know  
20 that one and two were used, but we don't know which  
21 is which.

22 Q. Let me switch gears, you mentioned a Mr. Ted  
23 Duval. Was that the name?

24 A. I know his name is Ted and for some reason I  
25 think -- he is the assistant election director or



1 deputy election director. I'm not sure his title.  
2 He's fairly new, but he works under Chris Harvey.

3 Q. The subject matter of that discussion was  
4 who was going to pay what for the license and the  
5 warranty and maintenance; is that right?

6 A. Correct.

7 Q. And has the Board expressed any concern over  
8 those costs? Do you recall?

9 A. I don't recall.

10 Q. Are you aware of any estimates of those  
11 costs for 50 to 70 BMDs?

12 A. Actually, one of our citizens had sent  
13 something to, I think, one of our county managers or  
14 county managers and one of our commissioners with  
15 concerns of how much they are. She had provided the  
16 RFI from ES&S which is one of the vendors that  
17 submitted that has the breakdown per BMD, per express  
18 poll and per the GEMS server, any license fee, update  
19 maintenance; and then provided those numbers and  
20 said, you know, the county will most likely be  
21 responsible for that. And that's when -- about the  
22 time I had the conversation. We went to the  
23 conference and I asked Ted about that.

24 Q. Okay. Did he give you any estimates? Did  
25 Ted give you any estimates that corroborated that or

1 conflicted with the numbers that you had received  
2 from the citizen?

3 A. I didn't ask specific numbers. I did ask  
4 him who will be paying those fees. And he said  
5 because they hadn't even started the RFP process  
6 because this was in March of '19 and I think the due  
7 date was mid-April of when they were going to turn in  
8 their proposals, that they did not -- they had no  
9 idea who was -- who was going pay what.

10 Q. That's still the case right now from all you  
11 know. You don't know --

12 A. Correct --

13 Q. -- any other information.

14 A. -- as far as I know.

15 Q. On the hand-marked paper ballots, not the  
16 BMDs but the real hand-marked paper ballots, have you  
17 discussed with your board about the benefits of the  
18 auditability of hand-marked paper ballots?

19 A. Obviously, right now there's very limited  
20 auditability in what we have.

21 Q. Right.

22 A. We -- we will do a postelection audit. We  
23 actually -- you-all had filed a motion for injunctive  
24 relief probably in September, October of '18 that  
25 requested -- there are about five requests from

1 you-all to Totenberg. And I'm not sure if it was  
2 ever ruled on or ruled on in time.

3 But I had reviewed that motion. And one of  
4 them was to do -- require the counties to do an audit  
5 on paper ballots. And I presented that to the Board,  
6 all of those. There were a couple of them that were  
7 on a state level that we could not do, you know, with  
8 express polls or things that are outside of our  
9 purview.

10 And the Board voted. So we did do an  
11 election -- postelection audit precertification on  
12 some of the precincts on some of the races, the  
13 contested races. So we did that.

14 One of the other ones was doing an audit of  
15 the poll tapes from the DREs that, obviously, we post  
16 a copy on the precinct, but we have a copy in our  
17 office.

18 We reviewed the polling precinct tapes  
19 versus what the GEMS database came up with those  
20 numbers and compared that they were the same.

21 Q. Have you -- those audits were audits that  
22 had been recommended with respect to the existing  
23 system; is that right?

24 A. Correct.

25 Q. Okay. Has -- have you or the board

1 considered the benefits of the true auditability that  
2 you would gain from having hand-marked paper ballots?  
3 Has that been something the Board has addressed?

4 A. We have had informal discussions about BMD  
5 versus hand-marked paper ballots. I know that we had  
6 a discussion outside the meeting with one board  
7 member and someone from the public about  
8 auditability -- auditability of BMDs.

9 And I know that that is one of the concerns  
10 that's brought up; that you can, in that board  
11 member's opinion -- you can do a postelection audit  
12 on BMD paper ballots when you compare what the  
13 electronic count is versus the hand count later on.

14 I'm not sure if that answered --

15 Q. Right. Was there some discussion about the  
16 problems with the auditability of a BMD result or how  
17 reliable that is?

18 A. Informal discussions outside of the board  
19 meeting.

20 Q. And then -- okay.

21 I think it's because I used too many  
22 pronouns, but I asked you some questions about the  
23 discussions and the communications you had with the  
24 Secretary of State about whether Morgan County had  
25 paper ballots by themselves. I need to ask those

1 again.

2 A. Okay.

3 Q. Is it my understanding that the Secretary of  
4 State informed Morgan County that Morgan County did  
5 not have the authority to switch to hand-marked paper  
6 ballots on its own?

7 A. Correct.

8 Q. And since you received that initial  
9 guidance, there has been no additional guidance in  
10 that respect?

11 A. There has been reiteration of that point.  
12 The Coalition for Good Governance has sent, I'm  
13 assuming, all election officials to the state a  
14 response -- or something about saying that they  
15 interpret it this way, that the counties can make  
16 that decision. And then the Secretary of State then  
17 sent a response to all of us as a response to that  
18 communication reiterating that individual counties do  
19 not have that authority.

20 Q. Do you know about when that last  
21 communication from the Secretary of State was?

22 A. (No response.)

23 Q. Let me ask it this way. Would it have been  
24 before or after Judge Totenberg's September 2018  
25 opinion?

1 A. I believe it was after that.

2 Q. Okay. We'll find it.

3 A. It is in the document --

4 Q. In your production?

5 A. Yes.

6 Q. Okay, great.

7 Focusing just on the DRE system, not new  
8 proposals from any source, have -- has Morgan County  
9 undertaken any effort to improve the DRE system in  
10 terms of security or vulnerability?

11 A. Can I ask for clarification?

12 Q. Sure.

13 A. Security like cyber security or physical  
14 security?

15 Q. Both.

16 A. Cyber security and vulnerability we have  
17 not. Physical security, the Department of Homeland  
18 Security offered all our counties a physical security  
19 assessment which we took advantage of. He came out  
20 and did an assessment.

21 Q. Did he give you some advice? Did he or she  
22 give you some advice as to how you could improve?

23 A. As he said, they do not give advice; they  
24 give options, which we have reviewed. Yes.

25 MR. BROWN: Off the record.

1 (Discussion ensued off the record.)

2 BY MR. BROWN:

3 Q. Did you follow any of the options and change  
4 your procedure -- physical security procedures?

5 A. We have adopted some of those options.

6 Q. What were those?

7 A. Umm...

8 Q. If you feel free in disclosing that.

9 A. The document where he gave us all that  
10 information has been listed as a critical  
11 infrastructure that is protected information.

12 Q. Okay. And so you don't feel comfortable  
13 disclosing it?

14 A. I do not.

15 MR. BROWN: I understand. Fair enough.

16 Let me get some things on the record.

17 Did we get a number yet? What number are we  
18 on?

19 (Discussion ensued off the record.)

20 (Plaintiff's Exhibit 32 was marked for  
21 identification.)

22 BY MR. BROWN:

23 Q. Let me hand you what's been marked as  
24 Plaintiff's Exhibit No. 32.

25 Is that a copy of the subpoena that you

1 received in this case?

2 A. Yes. It is.

3 Q. I believe you have produced some documents  
4 in response to this subpoena; is that correct?

5 A. I have.

6 Q. I want to direct your attention Exhibit 1 to  
7 your subpoena. Have you seen that document before?

8 A. I have.

9 Q. Okay. Other than in connection with your  
10 subpoena, had you seen it before?

11 A. These -- I started -- excuse me. I started  
12 at the elections office in 2017. So at the time I  
13 started, that website was no longer in use. So I  
14 know the files but not in relation to the website.

15 Q. Okay. When -- just in general, what access  
16 does the County have to the information or data at  
17 the Secretary of State's Office, if any, today?

18 A. The only data that we have access to is the  
19 data that they send us.

20 (Witness coughing.)

21 THE WITNESS: I'm so sorry.

22 MR. BROWN: That's okay.

23 BY MR. BROWN:

24 Q. How do they send it to you?

25 A. We meet an investigator with the Secretary



1 of State's office and receive --

2 MR. BROWN: If you need to take a break  
3 at any time --

4 THE WITNESS: Okay.

5 And receive most of the data that way.

6 MR. BROWN: Can you repeat the answer?

7 (Whereupon, the record was read by the  
8 reporter as requested.)

9 BY MR. BROWN:

10 Q. You say you meet, like physically?

11 A. Physically meet.

12 Q. And so they would give you what?

13 A. At the time, they give us the GEMS database  
14 and the express poll cards, memory cards.

15 Q. And then at some point you review advance  
16 proofs of the ballots; is that right?

17 A. Yes.

18 Q. How do you get those?

19 A. We get it through the FTP server.

20 Q. Are those -- am I correct that that's not  
21 the database itself but is better PDFs of your  
22 ballots; is that right?

23 A. Correct.

24 Q. And then you will sign off or not sign off  
25 on the ballots depending if they are accurate or not;

1 correct?

2 A. Correct.

3 Q. You do not see anything that would show how  
4 a ballot would appear on the DRE; is that right?

5 A. Not at that time.

6 Q. When would you?

7 A. When we start the L&A process, when we test  
8 the equipment, that is part of the L&A. We actually  
9 program a yellow card from the express poll and put  
10 it on the machine to make sure that all of the races  
11 appear.

12 We go through and hit them as part of our --  
13 there's a calibration process, but then we also go  
14 through on some of the machines and actually vote on  
15 them to make sure that they show up in the review  
16 that they are recording our cast ballots.

17 Q. The first time you actually receive the GEMS  
18 database from the Secretary of State is after you've  
19 reviewed the ballots and signed off on the ballots;  
20 is that correct?

21 A. Truthfully, I don't know. I can't remember  
22 the timeline of when that happens.

23 Q. But at some point, you do get the  
24 GEMS database for your elections and then that's when  
25 you start the logic and accuracy testing; is that

1 right?

2 A. Correct.

3 Q. Then the GEMS database goes into your  
4 server, your computer; correct?

5 A. Yes.

6 Q. And then at the appropriate time, you will  
7 create memory cards that will be inserted into each  
8 of your DRE machines; is that right?

9 A. Correct.

10 MR. BROWN: Can you see which folder has  
11 this one?

12 MS. MARKS: Mm-hmm.

13 (Discussion ensued off the record.)

14 (Plaintiff's Exhibit 33 was marked for  
15 identification.)

16 BY MR. BROWN:

17 Q. What is Exhibit 33?

18 A. This is the direct record electronic voting  
19 machine recap.

20 Q. Is that a document that you produced in  
21 response to your subpoena?

22 A. Correct.

23 Q. Just for the record, it's Morgan, dash, 1;  
24 is that right?

25 A. Correct. Yes.

1 Q. Why are the serial numbers blacked out on  
2 this copy?

3 A. The State's attorney said the seal numbers  
4 needed to be redacted, that they felt they were  
5 confidential.

6 Q. Did they explain to you why they thought it  
7 was confidential?

8 A. No.

9 Q. Do you have an independent basis for  
10 believing they are confidential?

11 A. During --

12 Q. I'm not suggesting you have to. I'm just --

13 A. Okay. I know during the L&A process, that  
14 any public -- anyone in the public that's observing  
15 L&A -- which is open to the public. No one ever  
16 shows up, but it is open -- that the seal numbers are  
17 not supposed to be observed or recorded by the  
18 public.

19 If you have a seal number, one, two, three,  
20 four, you can bring in your own one, two, three,  
21 four. You can go in there and mess with the machine  
22 and put a new seal number.

23 The seal number, the opening seal number,  
24 the first redacted, those are numbers that I put on  
25 there so that when the poll worker goes in and

1 confirms the DRE unit number, that the seal number  
2 matches the seal number that I put on there.

3 And that's part of the quality assurance,  
4 part of the process. Before they even open the  
5 machines, they have to check the seal numbers.

6 Obviously, that's not disclosable before  
7 because you don't want someone who could then go in  
8 and change the seal numbers.

9 Q. But after, does it matter? Now does that  
10 information matter?

11 A. I didn't realize there was -- I didn't know.

12 Q. You're not aware of a problem?

13 A. Correct.

14 Q. Would the same apply to the  
15 after-the-polls-close seal number?

16 A. Yes. Because the DREs are left in the  
17 polling place until the next morning. So the poll  
18 manager, as part of their closing process, they seal  
19 the DREs. And when they come back, I always go  
20 through and just do a quality assurance to make sure  
21 that the seal numbers that they put on there are the  
22 seal numbers that came back to me.

23 But at that point, they are locked in my  
24 storage room with very limited access.

25 Q. But the number -- just like with the ones

1 before, the number today is not of consequence?

2 A. They are not.

3 (Plaintiff's Exhibit 34 was marked for  
4 identification.)

5 BY MR. BROWN:

6 Q. Let me hand you what has been marked as  
7 Exhibit 34. And I'll represent to you this is not  
8 from your production.

9 A. Yes.

10 Q. But do you know what that is?

11 A. A ballot image report.

12 Q. And what is a "ballot image report"?

13 A. It's a vote cast record that shows what a  
14 voter chose for each race.

15 Q. Is there a way, looking at that particular  
16 document, to determine who the voter was?

17 A. No. There's not.

18 Q. Does that document disclose any information,  
19 which if combined with other information, would  
20 disclose the identity of the voter?

21 A. Not that I'm aware of.

22 Q. Are you aware of the position stated by some  
23 people that a ballot image report printed out does  
24 disclose the identity of the voter? Are you aware of  
25 that position?

1 A. I am aware of that.

2 Q. And do you understand the basis for that?

3 A. I do not.

4 Q. Putting aside that report -- well, let me  
5 back up just a little bit.

6 Your understanding, the ballot image report  
7 is something that is generated by the GEMS database;  
8 correct?

9 A. It's generated by the DRE. It's in the DRE  
10 is my understanding.

11 Q. In the DRE voting machine or something else?

12 A. I apologize. That would come from the  
13 memory card and then you could pull it on the GEMS  
14 database.

15 Q. So it would be recorded onto the memory card  
16 and then the memory card would go to the  
17 GEMS database?

18 A. Correct.

19 Q. So moving to the GEMS database for the  
20 purpose of my next question, apart from the piece of  
21 paper, the report that's generated that we call the  
22 ballot image report, are you aware of any data in the  
23 GEMS database system that could be used whether by  
24 itself or in combination with any other information  
25 to connect a voter to their actual vote?

1 A. I am not aware of any.

2 Q. Has anyone ever explained to you a different  
3 theory as to how you could connect the two?

4 A. I have -- no.

5 Q. Are you aware of any other information on a  
6 ballot image report like that that is sensitive or  
7 might cause harm if disclosed?

8 MS. ANDERSON: Object to the form.  
9 Cause harm to?

10 MR. BROWN: Cause harm to the State, to  
11 the County, to the election system, to the  
12 integrity of the elections.

13 THE WITNESS: I'm sorry. I'm trying --  
14 I'm thinking.

15 BY MR. BROWN:

16 Q. That's all right.

17 A. I don't know.

18 (Plaintiff's Exhibit 35 was marked for  
19 identification.)

20 MR. BROWN: For the record, I'll  
21 identify this and then I'm going to pass it  
22 around, so you all can see it.

23 For the record, Plaintiff's Exhibit 35  
24 is a January 30, 2019 memo from Chris  
25 Harvey, state elections director, to county



1 election officials regarding open records  
2 requests.

3 Just take a look at that.

4 (Witness reviewing document.)

5 BY MR. BROWN:

6 Q. Exhibit 35 is a memo you received?

7 A. Correct.

8 Q. Did you receive any additional communication  
9 from the Secretary of State that explained the basis  
10 for or content of the advice of the Attorney  
11 General's Office with respect to whether ballot  
12 images are subject to the Open Records Act?

13 A. There was communication regarding GEMS --  
14 reports from GEMS that reference the Attorney  
15 General's opinion from the Smith versus DeKalb Court  
16 of Appeals opinion, but I don't know if that was  
17 directly in conjunction.

18 There were quite a few OEBs, official  
19 election bulletins, regarding open records requests  
20 and in a couple of months' period. So I'm not sure  
21 if it was directly with that or if it was with  
22 another OEB.

23 Q. Okay. Thanks. Keep that with the  
24 originals.

25 Are you familiar with the issue of the

1 undervotes in the lieutenant governor's race?

2 A. Yes.

3 Q. And just for the record, what is your  
4 understanding of the issue?

5 A. That there was a disproportionate number of  
6 undervotes for the lieutenant governor's race that  
7 was uncharacteristic of past elections that -- or the  
8 increase in undervotes was more than what is  
9 generally seen.

10 Q. The increases in undervotes and the decrease  
11 with voter participation with respect to that one  
12 race?

13 A. Correct.

14 Q. Did you discuss this with the Board?

15 A. I did.

16 Q. What did you discuss with the Board about  
17 it?

18 A. It was brought to our attention with the  
19 discussions and then the lawsuit that eventually was  
20 filed, that there was an undervote. And so I -- I'm  
21 not even sure how it got started, but you can see  
22 that I prepared the numbers to show where the  
23 undervote was because it -- it was discussed that --  
24 not in our board meeting but in the public, that the  
25 undervote was in certain precincts.

1 So I went through and looked at the  
2 statement of votes cast, which kind of gives you a  
3 more detailed breakdown of votes per precinct per  
4 race. And I pulled up that document that you have.

5 (Plaintiff's Exhibit 36 was marked for  
6 identification.)

7 MR. BROWN: Let me hand you what will be  
8 marked as Exhibit No. 37.

9 THE REPORTER: 36.

10 MR. BROWN: 36.

11 BY MR. BROWN:

12 Q. Ms. Doran, is Exhibit 36 a spreadsheet that  
13 you prepared?

14 A. Yes, sir.

15 Q. What does this show?

16 A. This shows the number of voters. I broke  
17 it by precinct, by race -- contested races only  
18 because we had a few uncontested races and we did not  
19 do them in the amendments or the referendums -- the  
20 number of votes cast in each precinct, the number  
21 that voted -- because that was the big issue was the  
22 percentage that dropped down for that race.

23 So I broke it down per precinct that voted  
24 for that, how many number of votes. I did the  
25 percent of voters in each precinct and then the

1 percentage of the undervotes per precinct.

2 Q. Did you discuss with the Board any  
3 additional research that you would have recommended  
4 be done on the undervote issue?

5 A. Not that I remember.

6 Q. Did you discuss getting an outside analyst  
7 to look at the GEMS database itself?

8 A. I did not.

9 Q. Are you aware of that suggestion being  
10 raised, that some analysis be done on the GEMS  
11 database?

12 A. Actually, let me correct. Earlier you said  
13 analysts. That actually was discussed earlier this  
14 year when our first subpoena was -- actually, before  
15 the subpoena was served, but we had gotten a copy of  
16 the subpoena. We discussed it in the board meeting  
17 and there was a suggestion about having -- if we did  
18 not turn over the GEMS database, if we could hire our  
19 own experts to do an analysis.

20 Q. Did you hire your own expert to do that  
21 analysis?

22 A. We did not.

23 Q. Why didn't you?

24 A. We -- I spoke with the county attorney and  
25 with the Secretary of State. And the opinion is that

1 the county does not own the GEMS database so that we  
2 are not -- we cannot hire someone to work on  
3 something that does not belong to us.

4 MR. HENRY: Just for the record, I'll  
5 object to any attorney-client privileged  
6 conversations. I don't think what she  
7 stated necessarily violates that.

8 BY MR. BROWN:

9 Q. The -- did you understand any -- was the  
10 suggestion from the Secretary of State, it would do  
11 some harm to have it analyzed or just you didn't have  
12 the authority to do it?

13 A. My understanding is we did not have the  
14 authority to do it.

15 Q. Was the suggestion from the Secretary of  
16 State, Don't worry, we're looking at that? Did you  
17 get that sense?

18 A. I think it was, No, you don't have the  
19 authority, period.

20 Q. Without any indication that someone else is  
21 going to do it; correct?

22 A. Correct.

23 Q. Did you get -- I'm not suggesting that you  
24 needed to or anything else. But did you get any sort  
25 of written opinion as to why ownership of the GEMS

1 database -- license was necessary to conduct an  
2 analysis of the public data that's on the GEMS  
3 database?

4 A. I did not.

5 MR. BROWN: Okay. I'm going to take a  
6 little break here.

7 (Recess from 11:56 a.m. to 12:07 p.m.)

8 BY MR. BROWN:

9 Q. I want to return a little bit to the  
10 connection between a ballot image record and the  
11 identity of the voter.

12 Do you recall when Citizen Dufort asked the  
13 County for her ballot image? Do you recall that?

14 A. Yes.

15 Q. Would it have been possible for the County  
16 to find her ballot image?

17 A. To my knowledge, no.

18 Q. Have you received any advice that maybe you  
19 could if you did this or anything at all?

20 A. Part of the -- one, I think the first  
21 subpoena requested cast vote records for the first  
22 and last five voters for a couple of different  
23 precincts. And I spoke to Michael Barnes at the  
24 Secretary of State in anticipation of trying to  
25 produce it. And he told me that it is not stored in

1 a one, two, three, four order; that it's a  
2 randomized -- so if I were to print the first five,  
3 it may be -- it would not be the first five people  
4 that used that machine. It would be -- all of them  
5 are sort of random.

6 And when he told me that, that was  
7 sufficient for me. I didn't ask a lot more questions  
8 about how that works or anything, but -- so that is  
9 my understanding is that if I pull the first ballot  
10 image, it would not be necessarily the first person  
11 who voted on that machine.

12 Q. So even if you knew who the first person who  
13 voted was, you could not guarantee that the ballot  
14 image report that you pulled was that person's  
15 ballot; is that right?

16 A. To the best of my knowledge, yes.

17 Q. And you're not aware of any other  
18 information in the system, whether it's e-Poll books  
19 or the Smart Cards or anything else that could be  
20 used to connect a voter to their cast ballot?

21 A. I am not aware.

22 Q. You mentioned the Secretary of State a  
23 couple of times in recent discussions about your  
24 subpoena and about the documents that you produced.

25 Could you describe for me your interaction

1 with the Secretary of State on what you were allowed  
2 to produce or should produce just in general? And  
3 I'll come back and ask more specific questions if I  
4 need to.

5 A. The technical of how to produce was a very  
6 different conversation of can I produce.

7 Q. Right.

8 A. That -- that part -- the second part of what  
9 I can was turned over to our attorney for him to do.

10 Of course, we've gotten the official  
11 election ballots with general -- these are not  
12 producible; these are not open. But with the  
13 subpoena, I went ahead and was asking the actual  
14 technical procedures and those were the conversations  
15 I had with Michael Barnes. And he did, again,  
16 reiterate, Talk to your attorney before you do any of  
17 these.

18 Q. But you were talking to Barnes about how  
19 physically to retrieve the information; is that  
20 correct?

21 A. Correct.

22 Q. And you talked with him about the ballot  
23 image report that -- we already discussed that;  
24 right?

25 A. Yes.



1 Q. What other information did you talk to  
2 Mr. Barnes about retrieving?

3 A. I asked him how to do -- I can't remember.  
4 It's a document that I pulled off the GEMS. It was  
5 an administrative report that I produced for this  
6 subpoena.

7 Q. What else did you talk to him about?

8 A. I also asked about the -- I think I asked  
9 for the digital image of what the ballot would look  
10 like on the DRE and how that -- how I could do that.  
11 And he had told me that it's not something that --  
12 like I can't pull that up and it will actually show a  
13 picture.

14 I can pull up what a paper ballot looks  
15 like, obviously, but I can't pull up like a screen  
16 that would show a DRE. The only way he said I could  
17 do a digital image -- which I understood that I  
18 actually load the election to the machine again like  
19 I'm getting ready for the election and just take a  
20 picture of it.

21 Q. When he was advising you about what you can  
22 do, you're using the word "can" in its literal sense;  
23 in that what you were able to do not what you were  
24 permitted to do; correct?

25 A. Right. I'm talking about like what I'm

1 physically able to do, not legally able to do.

2 Q. You used the right words. I want to make  
3 sure, so --

4 A. Yes.

5 Q. -- there was no confusion.

6 On the electronic screen, I wanted to go  
7 back to a question about the review process before  
8 the vote.

9 You will review the PDFs of the paper  
10 ballot; correct?

11 A. Yes, the ballot proof.

12 Q. The ballot proofs and those would show you  
13 exactly what a paper ballot is going to look like;  
14 correct?

15 A. Correct.

16 Q. Not just the information but the  
17 presentation?

18 A. Right.

19 Q. With the electronic screen on the DRE,  
20 you're not given the opportunity before you do the  
21 L&A testing of seeing or reviewing the presentation  
22 of the ballots or of the races on the electronic  
23 screen; is that right?

24 A. Correct.

25 Q. And there's really no occasion for you to

1 sign off or not sign off on how the races appear on  
2 the electronic screen; is that right?

3 A. Correct.

4 Q. You testified that you had received advice  
5 and options from the Department of Homeland Security  
6 relating to physical security here in Morgan  
7 County -- or in Morgan County; correct?

8 A. Correct.

9 Q. Did DHS give you any sort of security that  
10 was nonphysical, either cyber security or software or  
11 any other kind of advice?

12 A. There is -- he has -- Dennis Mott is the DHS  
13 representative who came --

14 Q. How do you spell his last name?

15 A. M-O-T-T.

16 Q. Okay.

17 A. I'm not sure; I'm assuming he's an agent.  
18 But he did talk to me and said that they do have a  
19 computer security assessment done or they have that  
20 availability and I spoke with our IT director  
21 regarding that. But that is -- obviously, I don't  
22 have access to our servers. That would be something  
23 that IT would do.

24 Q. That Morgan County IT would do?

25 A. Correct.

1 Q. So as far as you know, that was not pursued  
2 in terms of DHS computer security work; right?

3 A. I know that our IT director regularly  
4 works -- there's -- Department of Homeland Security  
5 offers something -- IASC. I don't remember what it  
6 stands for. It's government election security -- or  
7 security and then they have election-specific  
8 security and they are already a part of that program.

9 Q. So Morgan County IT is already a part of the  
10 Homeland Security's general government security  
11 program --

12 A. Correct.

13 Q. -- of which elections is one piece?

14 A. Correct.

15 Q. But you're not aware of any scanning that  
16 the Department of Homeland Security did with respect  
17 to your elections?

18 A. I am not aware of any.

19 Q. Moving away from DHS to the Secretary of  
20 State, since you have been the elections director at  
21 Morgan County, has the Secretary of State done any  
22 sort of security review of Morgan County's election  
23 offices, either physical security or cyber security  
24 or any other kind of security?

25 A. I do know someone from the Secretary of

1 State, they come out and do something on our GEMS  
2 database to make sure that there are not additional  
3 programs or software, like some kind of scanning log.  
4 And that has -- they do it not on an annual basis  
5 because I've been there for over two years and it's  
6 only happened once.

7 Q. Do you know when that happened?

8 A. Last month.

9 Q. Last month?

10 A. Mm-hmm.

11 Q. What did they find?

12 A. That everything that was on there the last  
13 time they scanned is what's on there now.

14 Q. Do you know the last time they scanned  
15 before that?

16 A. 2015.

17 Q. Did they give you any documentation of their  
18 scanning work or is this just verbal?

19 A. He took his documentation.

20 Q. When you vote on a DRE, there appears --  
21 after you cast your vote, there appears a number on  
22 the DRE screen that I will try to describe to you and  
23 see if you know what it is. And if you don't have  
24 enough information, that's fine.

25 A. Okay.

1 Q. But the number appears to be a race number.  
2 So let's say it's a primary. It says REP and then  
3 five numbers or three numbers and then a space and  
4 then a precinct number and then a space and then a  
5 two-digit number.

6 Do you know what the last number -- those  
7 last two numbers are for?

8 A. I do not.

9 Q. Do you know what I'm talking about? Do you  
10 know the image I'm referring to? Does that ring a  
11 bell?

12 A. It does not.

13 Q. Okay.

14 A. Is it at the -- where would that be?

15 Q. It appears on -- right after you mash the  
16 cast-vote button, there's a number that appears.  
17 It's that number right in the center.

18 A. Okay. Where it says, Your ballot has been  
19 cast?

20 Q. Yes, ma'am.

21 A. I do not know what that is.

22 Q. Who was the person who came from the  
23 Secretary of State to review your -- to scan your  
24 system last month?

25 A. Chris Bellew, B-E-L-L-E-W.

1 (Plaintiff's Exhibit 37 was marked for  
2 identification.)

3 BY MR. BROWN:

4 Q. Let me hand you what has been marked as  
5 Exhibit 37. And I'll represent to you this is  
6 something from Rockdale County not Morgan County.  
7 And the purpose of this is to highlight an issue that  
8 some people have identified in the 2018 vote -- and  
9 that is, if you look at the second row of this table  
10 corresponding to unit four and then you'll see also  
11 the third row and the fourth row and then down in the  
12 middle of the page, half a dozen or so instances in  
13 which the voter complained that the ballot was cast  
14 before the voter had the opportunity to review the  
15 summary screen or to hit the cast-ballot button.

16 First of all, in your testing, did you  
17 observe that problem in any of the L&A or other  
18 testing that you did before the election?

19 A. I did not see that problem.

20 Q. Would you have seen it in the steps that you  
21 go through in the logic and accuracy testing?

22 A. As -- one of the tests that we do is we  
23 actually go through and just make choices. And then  
24 go to -- right before you hit "cast ballot" is the  
25 summary screen, which it appears that that's where

1 this was happening. We would have -- we would have  
2 been at that point on the machines, so that would  
3 have been when it happened, but we did not have that  
4 issue.

5 Q. Did you get reports of that issue from poll  
6 managers, poll workers or voters?

7 A. We did not. We had one woman who wanted to  
8 review everything and she kept hitting and hit "cast  
9 ballot," but she actually hit the "cast ballot." But  
10 we did not have any complaints that it cast before  
11 they hit the "cast ballot."

12 Q. Did you have complaints about just goofy  
13 machines that were -- the display not being proper or  
14 racing ahead or stalling or anything like that?

15 A. No.

16 Q. Did you -- not that you should have, but did  
17 you prepare a report like that that summarizes the  
18 problems, if any, that you encountered in the  
19 election?

20 A. We did not. We had one issue and it was  
21 a -- that we did document because it was -- and I'll  
22 go ahead and explain it to you. It happened with  
23 older women in early voting. I'm not sure how, but  
24 they were using their fingertips or fingernails to  
25 press and it wasn't registering.



1           When we told them to use the pad of it, it  
2   would register. But it was -- it was a common issue  
3   with only -- and I don't know why but only older  
4   women that were doing it basically with their  
5   fingernails or the tip of it. And as soon as they  
6   started pressing like this with the pad, it would  
7   read it.

8           Q. I guess younger women or younger men with  
9   fingernails are more used to maybe --

10          A. -- using the pad.

11          Q. -- using the pad.

12               Did you receive an FBI news flash -- that is  
13   before she got there probably.

14               (Discussion ensued off the record.)

15   BY MR. BROWN:

16           Q. Do you recall receiving a forwarded FBI news  
17   flash about the targeting of state board election  
18   systems?

19          A. I do not.

20           Q. In one of the earlier meetings, did you  
21   discuss with the Board the threat of a cyber-attack  
22   from foreign countries?

23          A. During -- there was some report, a federal  
24   report, and I don't remember where it was. It was in  
25   the summer or fall of '18, that it said that they

1 attacked or tried to access many election offices  
2 including in Georgia.

3 And the Board directed me and I asked Chris  
4 Harvey if that -- if there were any attacks. And I  
5 think they said there were about six counties. And  
6 so we wanted to make sure that -- we had not been  
7 aware of anything, so we wanted to make sure that we  
8 were not part of that.

9 And his reply was that their election  
10 websites were accessed, but not -- or visited but  
11 not --

12 Q. -- penetrated?

13 A. -- penetrated.

14 Q. Right. Do you remember the counties that  
15 were accessed?

16 A. He did not list it -- he did not list the  
17 six counties.

18 Q. And you don't independently know which ones  
19 those are?

20 A. I do not.

21 MR. BROWN: That's all I have. Thank  
22 you very much for your good work and for  
23 your testimony today. Very much appreciate  
24 it.

25 MR. HENRY: I don't know if anybody else

1 has any questions.

2 MR. LOWMAN: None from Fulton County.

3 MR. SPARKS: I have one.

4 MS. ANDERSON: You go ahead.

5 EXAMINATION

6 BY MR. SPARKS:

7 Q. Adam Sparks for the plaintiffs. And thank  
8 you again for your time today, Ms. Doran.

9 I just was unclear about one of the answers  
10 you gave and I want to make sure I understand.

11 When you were talking about the Board's  
12 discussion of postelection precertification audits on  
13 paper ballots for some contested races -- do you  
14 remember talking about that?

15 A. I do.

16 Q. -- I was unclear whether the Board merely  
17 discussed that proposal or actually approved an audit  
18 at some time or engaged in an audit.

19 Could you clarify that for me?

20 A. We did. During the discussion, the Board  
21 voted to adopt the proposal that I had presented to  
22 the Board, which included doing a postelection  
23 precertification review of the polling tapes as  
24 compared to the GEMS summary report. But that also  
25 included doing a manual recount of paper ballots in

1 certain precincts. And we did complete it before we  
2 certified the election.

3 Q. This is for the November 2018 election?

4 A. Yes, sir.

5 Q. Did you find any discrepancies in the audit?

6 A. We did not.

7 Q. Is that something the Board intends to  
8 undertake again if DREs are used in 2019?

9 A. That has not been discussed. But since the  
10 Board -- I believe it was a three to two vote and it  
11 was a successful -- the board members felt that, you  
12 know, it gave confidence to the public that it was --  
13 that our machines are operating or our scanners are  
14 operating as they should.

15 And my guess is that they would incorporate  
16 that in the November elections.

17 MR. SPARKS: Thank you for the  
18 clarification. I appreciate it. No further  
19 questions at this time.

20 MS. ANDERSON: I just have a few  
21 questions.

22 EXAMINATION

23 BY MS. ANDERSON:

24 Q. This is going back to the beginning. You  
25 were discussing optical scanners here in Morgan

1 County.

2 A. Yes.

3 Q. How many -- you may have mentioned this and  
4 I missed it. But how many optical scanners does  
5 Morgan County have?

6 A. We have two, one for absentee and one for  
7 provisional.

8 Q. Do you know if Morgan County went to entire  
9 hand-marked paper ballots using optical scanners, do  
10 you know how many scanners you would need to perform  
11 that?

12 A. We would need 10, seven precinct, one early  
13 voting. We would likely update the absentee and  
14 provisional so that we had the same scanners.

15 Q. Are you aware of how much optical scanners  
16 cost to obtain, to purchase?

17 A. Yes. We had received a quote from ES&S.  
18 And I can't remember the breakdown, but the scanner  
19 plus the secure ballot box which we would want if it  
20 were in each precinct was about \$1,300.

21 Q. I'm sorry. You had mentioned that earlier.

22 And would the County -- to obtain these  
23 optical scanners, would the County have to go through  
24 any procurement process, place bids out or anything  
25 of that nature?

1 A. My understanding is generally there is a  
2 procurement process. However, because the State  
3 certifies only certain vendors or certain companies,  
4 that we would only get it from them.

5 Q. Is there more than one vendor, do you know,  
6 for optical scanners?

7 A. I'm sure there are, but since we only use  
8 the one, that's where I got the quote from.

9 Q. If you needed to obtain optical scanners,  
10 could you go to that one vendor to receive more  
11 optical scanners or would you have to go through the  
12 procurement process to obtain the optical scanners if  
13 you were making the switch? Does that make sense?

14 A. Yes. I think right now they are the only  
15 vendor that sells the ones that are certified for the  
16 state of Georgia. So you would have to use them.

17 Q. Okay. Do you know about how long of a  
18 turnaround time it would take to obtain all of the  
19 optical scanners if you moved to the hand-marked  
20 paper ballots?

21 A. I had ordered two new express polls, which I  
22 know are very different equipment, because two of  
23 ours had died and it was just cheaper to buy them  
24 than get them fixed.

25 To go through the process of buying them and

1 getting them -- they had to go to the State so that  
2 they are certified and tested before they're sent to  
3 us was about two months.

4 Q. Would it be a similar process for optical  
5 scanners?

6 A. They do have to go through the State. So  
7 even if we purchased them, they don't come directly  
8 to us. Even if they were going to ship them that  
9 day, they have to go to the State and the State has  
10 to certify -- they have to do their testing and  
11 certification.

12 Q. As you know, there are two separate  
13 plaintiffs here, the Coalition plaintiffs and then  
14 you also have the Curling plaintiffs.

15 The Curling plaintiffs have requested that  
16 instead of using DREs for ADA purposes for a  
17 preliminary injunction -- I believe Mr. Brown  
18 discussed this earlier generally. But the Curling  
19 plaintiffs suggested or seek to have BMDs to be used  
20 for the upcoming municipal election for ADA purposes.

21 Do you know if that would even be possible  
22 for the County to purchase BMDs before the upcoming  
23 municipal elections?

24 A. I don't think it's possible because I think  
25 there is a rollout in place. And the 10 to

1 12 counties who are getting them, they are getting  
2 them for the municipal elections in November.

3 Q. And I know you've mentioned about having  
4 certified vendors through the State.

5 Are there any vendors currently certified  
6 for the use of BMDs?

7 A. Because the Secretary of State has not  
8 certified them, no.

9 MS. ANDERSON: I believe that's all I  
10 have.

11 MR. BROWN: I just have one follow-up  
12 question.

13 FURTHER EXAMINATION

14 BY MR. BROWN:

15 Q. You -- you testified that you'd have to buy  
16 10 scanners. It would cost about \$1300. But you  
17 could do a central count scanner, right, at your  
18 office? You don't have to have a scanner in every  
19 precinct?

20 A. When we discussed it back at the end of  
21 2018, when the board was batting around the idea, my  
22 suggestion, just for security, is that they get  
23 scanned at the precinct.

24 Not only security, people kind of do crazy  
25 things with their ballots. Sometimes they circle



1 them; they scratch them out and do that. If they  
2 make a mark and our scanner is not going to read it,  
3 it's better, in my opinion, to have the voter fix it  
4 then. Otherwise, if it doesn't get scanned at the --  
5 my office, we have to do a vote review panel. And  
6 you have three people who have to make a  
7 determination of what you intended.

8 So to me a precinct scanner not only where  
9 you're dropping it in after it's scanning, you  
10 have -- you know that your ballot has already been  
11 scanned and there's not going to be a three-person  
12 panel that decides how you voted.

13 Q. Have you looked at the pricing or the  
14 potential of purchasing used scanners of these  
15 AccuVote scanners?

16 A. I have not looked at those. I just went  
17 ahead and got the quote from ES&S.

18 Q. For the new ones?

19 A. Mm-hmm.

20 Q. You mentioned --

21 A. Vote review panel.

22 Q. Before -- there was something you said in  
23 one of your answers that I didn't understand before  
24 and it was in connection with the different types of  
25 voters or elections. And you said -- I think you

1 said absentee, provisional and challenged.

2 A. Correct.

3 Q. What's the "challenged"? What does that  
4 mean?

5 A. Occasionally, it doesn't happen often, but a  
6 vote -- someone can challenge another voter and say,  
7 I don't believe you live here or I don't believe you  
8 live in that precinct.

9 We would mark that person challenged. And  
10 it's the exact same process as a provisional. But  
11 then the Board decides after a hearing if that person  
12 is an elector or he is not.

13 Q. And then back to the -- the Board -- to your  
14 answer to the prior question about determining voter  
15 intent.

16 A. Mm-hmm.

17 Q. That's if there's a paper ballot that's not  
18 clear?

19 A. Correct.

20 Q. Is it usually fairly easy for the Board to  
21 determine voter intent in that instance?

22 A. Every one we've ever had to review, it was  
23 very clear. We had someone in November turn in one  
24 and she circled all of her answers. Very obvious  
25 that she chose this person rather than the other

1 one --

2 Q. Just didn't know how to follow instructions?

3 A. Right. Or we've had people who do  
4 checkmarks.

5 MR. BROWN: I wonder what she made on  
6 her SAT.

7 MS. ANDERSON: Or if she took it.

8 THE WITNESS: But we've never had any  
9 where there was any disagreement. It's a  
10 three-person panel. And the intent is  
11 always clear in our county. I know there  
12 are other counties that have -- that's not  
13 always as clear.

14 BY MR. BROWN:

15 Q. But in your experience it has been?

16 A. Correct.

17 MR. BROWN: Thank you very much for your  
18 time.

19 MS. ANDERSON: I just have a few.

20 FURTHER EXAMINATION

21 BY MS. ANDERSON:

22 Q. How often do those challenged ballots occur?

23 A. We have had -- so I've gone through about  
24 five elections now. I've had one challenged.

25 Q. And then for the three-person-review panel,

1 about -- you may not be able to tell.

2 How many ballots under the current system  
3 does the three -- do they normally have to review,  
4 the panel? And you can give a percentage, too.

5 A. Oh, a very low percentage. I would say one  
6 to two. But then also we use that vote review panel  
7 as a duplication team for provisional ballots that  
8 people who are out of precinct, we then have to  
9 duplicate it on the correct one, so we use those.  
10 They've actually been more duplicators than  
11 reviewing.

12 Q. And if you would have to go to a fully  
13 hand-marked paper ballot system with the optical  
14 scanners, would you anticipate that the number of  
15 reviewed ballots to increase?

16 A. Yes. Generally, our -- until this last  
17 election cycle, we tend to have about the same number  
18 of early voters. So these are people who have -- or  
19 absentee by mail voters. These are the people who  
20 always do paper ballots, who've always done paper  
21 ballots. They know what they are doing.

22 If we were to switch to hand-marked paper  
23 ballots, we have people -- like I've never even voted  
24 on a hand-marked paper ballots. I've always done  
25 machines.

1 And I'm sure there are quite a few of us  
2 since it's been in effect 17 years. There's a lot of  
3 new voters who have only done machines. So I would  
4 assume that at least the first couple of elections,  
5 that we would have people who would be checking or  
6 circling or choosing one and marking it out and go,  
7 "This one."

8 People have done that where they've  
9 accidentally chose one person, realized they chose  
10 the wrong one, and they wrote, "Not this one" and  
11 they'll put like an arrow and circle it. And the  
12 intent is very clear, but we still have to review it  
13 and duplicate it.

14 Q. Would it be -- do you think it would be a  
15 strain on your staff -- or that three-person-review  
16 panel if you moved to all hand-marked paper ballots?

17 A. Our vote review panel is comprised of a  
18 local Democrat and a local Republican and then either  
19 myself or the board chair as the third person. And  
20 they come in and they are going to sit there all  
21 night anyway.

22 I do think that we start fairly late in the  
23 evening, way after seven o'clock because we've got to  
24 wait for the provisionals to come in and the absentee  
25 ballots. We start right at 7:00 for those. But it

1 would be a longer night.

2 Q. But you believe you could get it done in  
3 time for the reporting and under the time limits  
4 under Georgia law to report?

5 A. Yes. Our board -- we have a five-member  
6 board. And on big elections all five of us -- or all  
7 five of them are there, plus me and the registrar and  
8 Jan Wilbanks.

9 So our registrar starts the absentee ballot  
10 opening and the board members start scanning. So,  
11 you know, the vote review panel could be off to the  
12 side doing it where it's not just we have to finish  
13 this and then this. It's sort of a multifaceted  
14 thing going on at the same time.

15 MS. ANDERSON: No further questions.

16 MR. BROWN: That's it.

17 David?

18 MR. LOWMAN: No questions.

19 THE REPORTER: Is she reading and  
20 signing?

21 (Counsel explains read and sign  
22 procedure to witness.)

23 THE WITNESS: I'll waive it.

24 THE REPORTER: I know everybody ordered  
25 a copy last time.

1 Did you want a copy --

2 MS. ANDERSON: Electronic.

3 THE REPORTER: Mr. --

4 MR. SPARKS: Electronic.

5 MR. LOWMAN: Electronic.

6 (Deposition concluded at 12:44 p.m.)

7 (Signature waived.)

CERTIFICATE

STATE OF GEORGIA:

COUNTY OF FULTON:

I hereby certify that the foregoing transcript was taken down, as stated in the caption, and the colloquies, questions, and answers were reduced to typewriting under my direction; that the transcript is a true and correct record of the evidence given upon said proceeding.

I further certify that I am not a relative or employee or attorney of any party, nor am I financially interested in the outcome of this action.

This the 5th day of July, 2019.



Marsi Koehl, CCR-B-2424





DISCLOSURE

STATE OF GEORGIA:

COUNTY OF DEKALB:

Deposition of JENNIFER DORAN.

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Date: 7/5/19

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